

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.11895 of 2019**

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Sidhnath Chaudhary S/o Late Badri Chaudhary, Resident of Village-  
Mahabalipur, P.S.- Paliganj, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Food and Consumer Protection Department, Government of Bihar, Patna.
2. The Collector Patna.
3. The Sub Divisional Officer, Paliganj, Patna.
4. The Block Supply Officer Paliganj, Patna.

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Dhananjaya Nath Tiwari, Adv.  
For the Respondent/s : Mr. Arvind Ujjwal, SC-4.

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**CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY**  
**ORAL JUDGMENT**

**Date : 21-08-2023**

Heard the parties.

2. The present writ petition is filed for the following  
relief:-

“For setting aside the order contained in Memo No. 9 dated 12.01.2018 passed by the Learned Sub-Divisional Officer, Paliganj (Patna) by which the PDS licence of the petitioner being licence No. 04 of 2016-17 has been cancelled on the grounds which are not sustainable in the eyes of law and further be pleased to restore the licence and supply the petitioner.”



3. Learned counsel appearing on behalf of the petitioner has stated that the official-respondents without supplying the enquiry report nor examining any complainants/consumers have canceled the licence issued in favour of the petitioner. Further learned counsel for the petitioner has stated that there is no independent application of mind by the authority concerned and he has simply relied on the opinion of the Block Supply Officer. The order impugned is bereft of any reasons and, therefore, the impugned order is liable to be set aside and the licence of the petitioner restored.

4. Per contra, learned counsel appearing on behalf of the respondents has stated that the petitioner has an alternative and effective remedy of filing an appeal but by surpassing the said provision, the petitioner has straightaway approached this Court under Article 226 of the Constitution of India and same is not permissible.

5. Further the learned counsel has also stated that the petitioner can raise all the grounds that he wants before the Appellate Authority and prayed this Court to dismiss the present writ petition.

6. A perusal of the impugned order as well as the show cause notice issued to the petitioner shows that the enquiry



report/opinion of the Block Supply Officer has not been furnished to the petitioner along with the show cause notice. Moreover, it is seen that the impugned order is passed on the opinion of the Block Supply Officer and without taking into consideration the reply given by the petitioner to the show cause notice.

7. A Division Bench of this Hon'ble Court in C.W.J.C. No. 21200 of 2021 vide judgement dated 22.02.2022 has held as under:-

“From the perusal of the order impugned, it appears that the same is primarily based on the opinion of the Block Supply Officer before whom the matter was sent for giving his opinion.

There is no difficulty in making a discrete enquiry before coming to any final conclusion. But basing the decision solely on the opinion of the Block Supply Officer is not warranted under the Control Order of 2016. The satisfaction has to be of the Licensing Authority and not of the other functionary under the scheme”.

8. Having regard to the above, the impugned order is set aside and the matter remanded back to the authority



concerned for passing order afresh duly taking into consideration the reply submitted by the petitioner. In case the authority wants to rely on the enquiry report or the opinion of the Block Supply Officer, the same shall be furnished to the petitioner and the petitioner shall be given an opportunity of submitting his explanation afresh. Thereafter, the authority concerned shall give an opportunity of hearing to the petitioner and pass necessary orders on merits. The entire exercise shall be completed within a period of two months from the date of receipt of the copy of this order.

9. With the above observations, the present writ petition stands disposed off.

**(A. Abhishek Reddy , J)**

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